

## Law Office of LeRoi C. Johnson PLLC

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*Attorney and Counselor at Law*

*\* LeRoi C. Johnson, Esq.*

*Maria Hanssel, Legal Assistant*

May 14, 2025

Via US Mail

Hon. Michael J. Roemer  
United States Magistrate Judge/Western District of New York  
Robert H. Jackson US Courthouse  
2 Niagara Square  
Buffalo, NY 14202

**Re: Carl McIntosh v. Jane Eugene et al.  
Case No. 1:22-CV-248  
Update and Request for Conference**

Dear Magistrate Judge Roemer:

On January 30, 2025 counsel for the defendant sent a letter requesting a 45-day extension of time to produce additional documents to plaintiff. Pursuant to that request the Court granted the request and such additional responsive documents to be provided by plaintiff's counsel no later than March 19, 2025. The Court must note that Plaintiff has provided all documents required by Fed R 26 in pre-trial discovery and pursuant to defendant's discovery requests to defendant's prior counsel and no objections were made. At the same time, the entire time that this matter has been before the Court, the defendants have made request after request for extensions without providing documents required under both Rule 26 and pursuant to discovery. I believe that Plaintiff has been generous in agreeing to extensions, however, I asked the Court not to grant any additional extensions. It is now two months after the date set by the Court of March 19, 2025 and still Defendants have not fulfilled their discovery requests.

Defendants, in the letter dated March 18, 2025, indicated that they provided date-stamped documents 1-1524. Note that most of these documents were not accessible to my office for technical reasons (no hard copies were provided); I would say 70% of the documents. Of those retrievable, most were short ads and emails. I've attached a letter to defendant's counsel outlining the reasons why the discovery was inaccessible and requested a court conference to discuss the matter. I believe that it's not costly or a hardship to provide hard copies.

The documents provided are not responsive to Plaintiff's requests. The documents requested are in response to Defendant's own allegations and therefore should be supportable by documents. Defendant's discovery is missing numerous tour dates, contracts for venues, agents' contracts, venue settlement sheets, and promotional and marketing

\*Admitted in New York, Pennsylvania & Washington, D.C.

*181 Franklin Street, Suite 320, Buffalo, New York 14202-2409*

**Attorney: (716) 885-6883 Fax: (716) 852-3641 Paralegal: (716) 885-5553  
leroilaw@aol.com**

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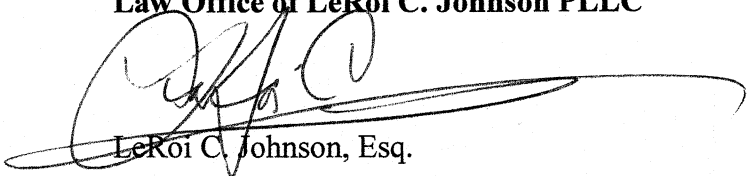
materials for the dates. The Court should note that this is a continuing demand and Defendant has continued to perform **without even attempting** to provide recent tour activity for 2024-25. Defendant's statement that they have substantially complied with the Order is a gross overstatement of their discovery responses.

Counsel raised the trademark issue. This matter is currently on review before the USPTO with another attorney and is exempt from initial disclosure.

Should you have any questions, please feel free to call.

Sincerely,

**Law Office of LeRoi C. Johnson PLLC**



LeRoi C. Johnson, Esq.

LCJ/mth

\*Admitted in New York, Pennsylvania & Washington, D.C.

**181 Franklin Street, Suite 320, Buffalo, New York 14202-2409**  
**Attorney: (716) 885-6883 Fax: (716) 852-3641 Paralegal: (716) 885-5553**  
**leroilaw@aol.com**

**LeRoi C. Johnson**

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**From:** Leroi Johnson <leroilaw@aol.com>  
**Sent:** Wednesday, May 14, 2025 11:33 AM  
**To:** Leroi Johnson  
**Subject:** Fw: McIntosh v. Eugene [IMAN-ACTIVE.FID3333433]

----- Forwarded Message -----

**From:** Ganswith, Kyra E. <kganswith@barclaydamon.com>  
**To:** Leroi Johnson <leroilaw@aol.com>  
**Sent:** Tuesday, February 4, 2025 at 12:57:09 AM EST  
**Subject:** Re: McIntosh v. Eugene [IMAN-ACTIVE.FID3333433]

Hi LeRoi,

Thank you for your response. I will check what other options our review platform can export the productions in, as this is the standard we usually use and receive, and let you know as soon as possible.

Thank you,  
Kyra

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**From:** Leroi Johnson <leroilaw@aol.com>  
**Sent:** Monday, February 3, 2025 8:57:09 PM  
**To:** Ganswith, Kyra E. <KGanswith@barclaydamon.com>  
**Subject:** Re: McIntosh v. Eugene [IMAN-ACTIVE.FID3333433]

Thank you for the detailed explanation. My paralegal and I spent a substantial amount of time trying to access the discovery documents without success. I really don't plan on bringing in a special technician to access documents. Please submit discovery in an easier format. Thank you. LeRoi

On Monday, February 3, 2025 at 07:19:28 PM EST, Ganswith, Kyra E. <kganswith@barclaydamon.com> wrote:

LeRoi,

I received your letter today. We will send courtesy copies of the items you requested. However, going forward I wanted to explain the production.

For the first set of documents you list, I think you are just looking at the image files. Each production folder has three subfolders: Image, Native and Text. For any file provided in native format, we provide a slipsheet in the image folder that says "Document Provided in Native". If you navigate to the Native subfolder, you will see all of the documents in the first list in your letter.

For the .dat file you list second, that is not a listed document in the production. That is a data file provided as a part of the production. This would allow you to load our entire production into a discovery platform should you wish. All production folders include a .dat file, in addition to the three above-referenced subfolders.

In the third instance, you're looking at the Native folder for video files (MP4s). There isn't going to be an "HTML preview" for an MP4. They should open in a video player on any standard Mac or PC.

In the fourth set of documents you reference, you are looking at .txt files for documents we provided in Image format. Because of the quality of how some of the documents were provided (low quality scans), our review platform pulled as much text as it could from them as it could.

As to your comments regarding the second production, with respect to images, you seem to refer to the image files for documents provided in .txt; 002.dat is the production data file and the .txt files you are looking at were all provided in either image or native format. I hope this helps.

Thanks,

Kyra

**Kyra E. Ganswith**

Pronouns: she/her/hers  
Associate

**BARCLAY DAMON** <sup>WP</sup>

80 State Street • Albany, NY 12207

D: (518) 429-4248 • F: (518) 427-3480 • C: (518) 944-7013

E: KGanswith@barclaydamon.com

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